

**REMARKS/ARGUMENTS**

Favorable consideration of this application is respectfully requested. Applicant has rewritten claims 1, 16, 20, 24 canceled claims 3, 21, 22, and 25. Applicant gratefully appreciates the interview with the Examiner on June 4, 2004, and the examiner's indication that the finality of the previous office action will be withdrawn, and applicants amendments to the claims would be entered in view of "typographical error" by the examiner. Favorable reconsideration of this application is, consequently, earnestly solicited in view of the following remarks.

Claim 1 was amended to include the features of dependent claim 3. Claim 20 was amended to include the features of dependent claims 21 and 22. Claim 24 was amended to include the subject matter of dependent claim 25.

Claims 1-2, 6-9, 12-14 and 20-29 were rejected under sec. 103a as being anticipated by Bidz. The Bidz reference shows menu pages that a user must navigate through where each menu page has various combinations of plural side by side vcolumns, horizontal listings, and combinations thereof, etc., that clearly make this web site both difficult and impractical to navigate through.

Subject independent claim 1 has been amended to include the novel subject matter dependent claims 3 of using handheld devices having small screens for viewing single column lists without search queries, which is a major benefit of the subject invention which clearly is not described, taught, nor suggested by Bidz.

The subject invention encompasses a web site allowing user to view information in a "fluidity of taxonomy" that describes and shows these novel features and their benefits on in at least subject invention figures 5-12, and on at least pages 5, 6, 10, 20. Clearly, these novel features are not described, taught, nor shown by Bidz. Thus, removal of this reference is respectfully requested.

Applicant strongly disagrees with the examiner's characterization that "specific layout and configuration of columns and headings....is a matter of design choice and does not effect the overall operation of the method being modified..."

It is clearly improper for the examiner to arbitrarily ignore any of the novel features of any of the claims. Under patent office rules, if the applicant requests the

examiner cite the reference(s) showing each and every one of the references that supports a rejection, the examiner must cite the reference or remove the rejection. Thus, the examiner must cite the reference(s) that shows these unsubstantiated opinions and assertions mentioned in their rejection, or remove the 103 rejection for at least these reasons alone.

The affidavit signed by one of the inventors of the subject application clearly provides evidence that the Bidz reference CANNOT perform the novel method steps of amended claim 1. Thus, removal of the Bidz reference is respectfully requested.

Claims 3 and 16 were rejected under sec. 103 as being unpatentable over Bidz in view of Wolfe. The Wolfe patent does not overcome the deficiencies to Bidz described above. Wolfe requires separate search queries be entered into a computer 1102+ Fig. 11 and described on column 16, lines 53-68 and column 17. The subject invention claims accessing and selecting through headings and scrolling down vertical lists without “inputting any search queries....”

Applicant also disagrees with the examiner’s contention that Wolfe describes “navigating and viewing the menu pages through a handheld device.....” The examiner is clearly reading Wolfe out of context. Column 16, lines 20-45 of Wolfe describes “creation of an e-mail message including, for example, beeper number or numbers for the e-mail paging service to call .....” There is clearly no description, teaching, nor suggestion for the examiner’s statement that Wolfe shows “navigating and viewing menu pages through a handheld device.....” Applicant requests that if the examiner maintains this rejection then the Examiner clearly describe how Wolfe describes, teaches and suggests the novel steps of the subject claims.

Applicant strongly disagrees with the examiner’s contention that subject claims 20-29 are encompassed by the Bidz reference. As admitted by the examiner during the June interview, the examiner has admitted that Bidz does not appear to describe, teach, or suggest all of the features of these claims and will remove the finality of the current office action with this amendment response.

Dependent claims 14, 16, and amended claim 24 claims the novel benefits of “instant(ly) notification(ifying)” to buyers which can immediately notify buyers through email, PDAs. Pagers, cell phones, which clearly not described, taught nor suggested in

Bidz. The subject invention describes and shows these novel features and their benefits on at least pages 4-6, 19 and 20 of the subject invention specification. Thus, removal of this reference is respectfully requested.

Amended independent claim 20 the novel benefits of allowing the end-user to control the headings, categories and subcategories through a controller id function so that end-users can modify the menu pages of the web site, which is clearly not described, taught nor suggested in Bidz. The subject invention describes and shows these novel features and their benefits on in at least pages 9-11 of the subject invention specification. Thus, removal of this reference is respectfully requested.

Previously presented claims 26-27 claims the novel benefits of allowing the end-user to pass through several menu pages and not have to physically enter information for a seller advertisement or a desired interest by a buyer, since the invention automatically fills in information based on the end-user having reached a selected menu page , which clearly not described, taught nor suggested in Bidz. The subject invention describes and shows these novel features and their benefits on in at least subject invention Figures 16, 30, and on at least pages 11 and 23 of the subject invention specification. Thus, removal of this reference is respectfully requested.

Previously presented claims 28-29 claims the novel benefits of allowing the clients to the web site invention to selectively determine specific menu pages for placing banner ads which clearly not described, taught nor suggested in Bidz. The subject invention describes and shows these novel features and their benefits on in at least subject invention on pages 21-22 of the subject invention specification. Thus, removal of this reference is respectfully requested.

The Examiner appears to be saying that each and every of the subject claim features might be unpatentable under an “obvious to try” to test. However, Examiner is well aware that “obvious to try” is not the standard for determining inventiveness. See also *In re Kaplan*, 789 F. 2d at 1580, 229 U.S.P.Q. at 683, where the court held: “In effect, what the Board did was to use a disclosure of appellants’ own joint invention which had been incorporated in the Kaplan sole disclosure to show that their invention was but an obvious variation of Kaplan’s claimed invention. That amounts to using an applicant’s invention disclosure, which is not ... prior art... That is impermissible.”

The mere fact that someone in the art can rearrange parts of a reference device to meet the terms of a claim is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation or reason for someone of ordinary skill in the art, without the benefit of the inventor's specification to make the necessary changes in the reference device. *Ex parte Chicago Rawhide Mfg. Co.*, 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984).


There is no teaching, nor suggestion for modifying the references of record to include all the novel features of the amended claims. Under well recognized rules of the MPEP (for example, section 706.02(j)), the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant contends the references cannot be modified to incorporate the features of subject claims without utilizing Applicant's disclosure. The courts have consistently held that obviousness cannot be established by combining the teachings of the prior art to Applicant to produce the claimed invention, absent some teaching, suggestion, incentive or motivation supporting the combination.

The remaining references listed on page 8 of the office action mailed March 25, 2004, cited but not applied fail to overcome the deficiencies to Bidz described above.

It is respectfully urged that claims 1, 2, 6-9, 12-14, 16, 20, 23, 24, and 26-29 be allowed. Such action is respectfully requested. If the Examiner believes that an interview would be helpful, the Examiner is requested to contact the attorney below.

Respectfully Submitted;

  
\_\_\_\_\_  
Brian S. Steinberger  
Registration No. 36,423  
101 Brevard Avenue  
Cocoa, Florida 32922  
Telephone: (321) 633-5080

Date 7/26/07